

Effective 5/10/2016

Part 3
Assisted Living Facility Surveillance Act

26-21-301 Title.

This part is known as the "Assisted Living Facility Surveillance Act."

Enacted by Chapter 141, 2016 General Session

26-21-302 Definitions.

As used in this part:

- (1) "Facility" means an assisted living facility.
- (2) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.
- (3)
 - (a) "Monitoring device" means:
 - (i) a video surveillance camera; or
 - (ii) a microphone or other device that captures audio.
 - (b) "Monitoring device" does not include:
 - (i) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or
 - (ii) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.
- (4) "Resident" means an individual who receives health care from a facility.
- (5) "Room" means a resident's private or shared primary living space.
- (6) "Roommate" means an individual sharing a room with a resident.

Enacted by Chapter 141, 2016 General Session

26-21-303 Monitoring device -- Installation, notice, and consent -- Liability.

- (1) A resident or the resident's legal representative may operate or install a monitoring device in the resident's room if the resident and the resident's legal representative, if any, unless the resident is incapable of informed consent:
 - (a) notifies the resident's facility in writing that the resident or the resident's legal representative, if any:
 - (i) intends to operate or install a monitoring device in the resident's room; and
 - (ii) consents to a waiver agreement, if required by a facility;
 - (b) obtains written consent from each of the resident's roommates, and their legal representative, if any, that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and
 - (c) assumes all responsibility for any cost related to installing or operating the monitoring device.
- (2) A facility shall not be civilly or criminally liable to:
 - (a) a resident or resident's roommate for the operation of a monitoring device consistent with this part; and
 - (b) any person other than the resident or resident's roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions of an employee or agent of the facility.

- (3) Notwithstanding any other provision of this part, an individual may not, under this part, operate a monitoring device in a facility without a court order:
- (a) in secret; or
 - (b) with an intent to intercept a wire, electronic, or oral communication without notice to or the consent of a party to the communication.

Enacted by Chapter 141, 2016 General Session

26-21-304 Monitoring device -- Facility admission, patient discharge, and posted notice.

- (1) A facility may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room.
- (2) A facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room.
- (3) A facility may require the resident or the resident's legal representative to place a sign near the entrance of the resident's room that states that the room contains a monitoring device.

Enacted by Chapter 141, 2016 General Session